

ASSEMBLY BILL

No. 1742

**Introduced by Committee on Revenue and Taxation (Chavez
(Chair), Laird, Leno, and Simitian)**

March 11, 2003

An act to amend Sections 19120, 19368, and 19411 of, and to amend and renumber Section 24328 of, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1742, as introduced, Committee on Revenue and Taxation. Income and corporation taxes: interest: abatement.

Existing income tax laws provide for interest at a specified rate with respect to refunds and credits.

This bill would provide that any abatement of interest shall be made with reference to a specified law.

The Corporation Tax Law provides that a scholarshare trust is established and maintained as a qualified state tuition program, as provided.

This bill would make a technical change to that provision.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 19120 of the Revenue and Taxation
- 2 Code is amended to read:
- 3 19120. Any portion of any amount—~~which~~—that has been
- 4 erroneously refunded and—~~which~~—that is recoverable by suit

1 pursuant to Section 19411 shall bear interest at the adjusted annual
2 rate established pursuant to Section 19521 from the date ~~that is 30~~
3 ~~days after the Franchise Tax Board mails a notice and demand for~~
4 ~~repayment of the payment of the refund. Abatement of interest~~
5 ~~under this section is governed by subdivision (c) of Section 19104.~~

6 SEC. 2. Section 19368 of the Revenue and Taxation Code is
7 amended to read:

8 19368. If the Franchise Tax Board makes or allows a refund
9 or credit that it determines to be erroneous, in whole or in part, the
10 amount erroneously made or allowed may be assessed and
11 collected after notice and demand pursuant to Section 19051
12 (pertaining to mathematical errors), except that the rights of
13 protest and appeal shall apply with respect to amounts assessable
14 as deficiencies without regard to the running of any period of
15 limitations provided elsewhere in this part. Notice and demand for
16 repayment must be made within two years after the refund or credit
17 was made or allowed, or during the period within which the
18 Franchise Tax Board may mail a notice of proposed deficiency
19 assessment, whichever period expires the later. ~~Interest on~~
20 ~~amounts erroneously made or allowed shall not accrue until 30~~
21 ~~days from the date the Franchise Tax Board mails a notice and~~
22 ~~demand for repayment as provided by this section~~ *Abatement of*
23 *interest on an amount due under this section is governed by*
24 *subdivision (c) of Section 19104.*

25 SEC. 3. Section 19411 of the Revenue and Taxation Code is
26 amended to read:

27 19411. (a) The Franchise Tax Board may recover any refund
28 or credit or any portion thereof ~~which~~ *that* is erroneously made or
29 allowed, together with interest at the adjusted annual rate
30 established pursuant to Section 19521 ~~beginning 30 days after the~~
31 ~~board mails a notice and demand for repayment~~, in an action
32 brought in a court of competent jurisdiction in the County of
33 Sacramento in the name of the people of the State of California
34 within whichever of the following periods expires the later:

35 ~~(a)–~~

36 (1) Two years after the refund or credit was made.

37 ~~(b)–~~

38 (2) During the period within which the Franchise Tax Board
39 may mail a notice of proposed deficiency assessment.

1 ***(b) Abatement of interest under this section is governed by***
2 ***subdivision (c) of Section 19104.***

3 SEC. 4. Section 24328 of the Revenue and Taxation Code is
4 amended and renumbered to read:

5 ~~24328.—~~

6 23711.5. The Golden State Scholarshare Trust, established
7 pursuant to Article 19 (commencing with Section 69980) of
8 Chapter 2 of Part 42 of the Education Code, is an instrumentality
9 of this state and the income of the Scholarshare trust shall be
10 exempt from taxes imposed under this part. The Scholarshare trust
11 is established and shall be maintained as a qualified state tuition
12 program as defined in Section 529 of the Internal Revenue Code;
13 ~~as added by Section 1806 of the Small Business Job Protection Act~~
14 ~~of 1996 (P.L. 103-188).~~

